

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
BOARD OF TRUSTEES OF THE LOCAL
295/LOCAL 851 – I.B.T. EMPLOYER
GROUP PENSION TRUST FUND and the
BOARD OF TRUSTEES OF THE LOCAL
295/LOCAL 851 – I.B.T. EMPLOYER
GROUP WELFARE FUND,

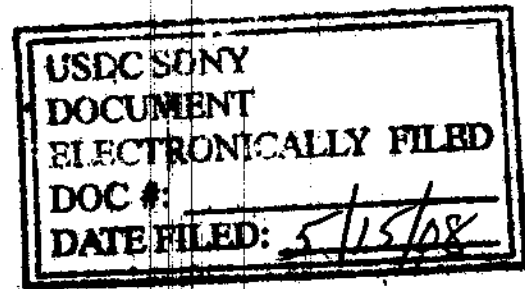
Plaintiffs,

vs.

EMPIRE FREIGHT SYSTEMS CORP.,

Defendant.

Case No. 08-525 (LAK) (FM)



DEFAULT JUDGMENT

This action having been commenced by the filing of a Summons and Complaint on January 22, 2008, the Summons and Complaint having been served upon defendant Empire Freight Systems Corp. on January 28, 2008, and proof of service of the Summons and Complaint having been filed on January 31, 2008, and defendant having failed to answer or otherwise move with respect to the Complaint and the time therefore having expired;

NOW, on motion of Cary Kane LLP, attorney for the plaintiffs, by Rachel Paster, Esq., it is:

ORDERED, ADJUDGED AND DECREED, that plaintiffs, Trustees of the Local 295/Local 851 – I.B.T. Employer Group Pension and Welfare Trust Funds, in their fiduciary capacity for the Funds, have judgment against defendant in the amount of \$161,919.87, consisting of \$76,372.50 in due and unpaid contributions to the Welfare Fund from April 2006 through January 2008, \$13,880.09, in interest on the unpaid and late paid contribution to the Welfare Fund; \$38,866.00 in due and unpaid contributions to

the Pension Fund from February 2006 through January 2008, \$5,688.83 interest on the unpaid and late-paid contributions to the Pension Fund; liquidated damages of \$23,047.70, attorneys' fees of \$3,618.75 and costs of this action of \$446.00, all as required by Section 502 of ERISA, 29 U.S.C. §1132, and it is further

ORDERED ADJUDGED AND DECREED that interest continue to accrue on the unpaid contributions at the prime rate from the date judgment is entered until the judgment is paid.

NYC
Dated: ~~Brooklyn~~, New York
2008

SO ORDERED

Michael McHale

CLERK

By: Stewart
DEPUTY CLERK

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
BOARD OF TRUSTEES OF THE LOCAL
295/LOCAL 851 - I.B.T. EMPLOYER
GROUP PENSION TRUST FUND and the
BOARD OF TRUSTEES OF THE LOCAL
295/LOCAL 851 - I.B.T. EMPLOYER
GROUP WELFARE FUND,

Plaintiffs,

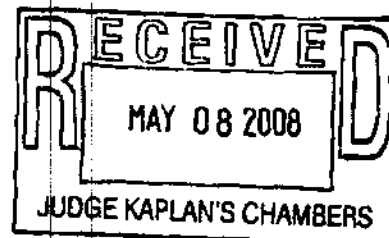
vs.

EMPIRE FREIGHT SYSTEMS CORP.,

Defendant.

MEMO ENDORSED

Case No. 08-525 (LAK) (FM)



MOTION FOR DEFAULT JUDGMENT

Plaintiffs, the Board of Trustees of the Local 295/Local 851 - I.B.T. Employer Group Pension Trust Fund and the Board of Trustees of the Local 295/Local 851 - I.B.T. Employer Group Welfare Fund, through their counsel, do hereby move for a default judgment under Rule 55(b)(2) of the Federal Rules of Civil Procedure.

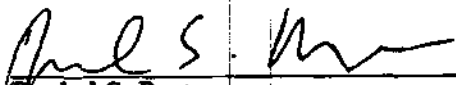
Plaintiffs submit herewith: (1) the affidavit of Rachel S. Paster, along with attachments; (2) a statement of damages; (3) the affidavit of Rachel S. Paster in support of an attorneys' fee award; (5) a certificate of service; and (6) a proposed judgment. Plaintiffs seek a monetary award in the amount of \$161,919.87.

DATED: May 7, 2008

CARY KANE LLP

SO ORDERED

LEWIS A. KAPLAN, USDI


Rachel S. Paster
1350 Broadway, Suite 815
New York, NY 10018
(212) 868-6300

USDS SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 5/9/08

**United States District Court
Southern District of New York
Office of the Clerk
U.S. Courthouse
500 Pearl Street, New York, N.Y. 10007-1213**

Date:

In Re:

-v-

Case #:

()

Dear Litigant,

Enclosed is a copy of the judgment entered in your case.

Your attention is directed to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, which requires that if you wish to appeal the judgment in your case, you must file a notice of appeal within 30 days of the date of entry of the judgment (60 days if the United States or an officer or agency of the United States is a party).

If you wish to appeal the judgment but for any reason you are unable to file your notice of appeal within the required time, you may make a motion for an extension of time in accordance with the provision of Fed. R. App. P. 4(a)(5). That rule requires you to show "excusable neglect" or "good cause" for your failure to file your notice of appeal within the time allowed. Any such motion must first be served upon the other parties and then filed with the Pro Se Office no later than 60 days from the date of entry of the judgment (90 days if the United States or an officer or agency of the United States is a party).

The enclosed Forms 1, 2 and 3 cover some common situations, and you may choose to use one of them if appropriate to your circumstances.

The Filing fee for a notice of appeal is \$5.00 and the appellate docketing fee is \$450.00 payable to the "Clerk of the Court, USDC, SDNY" by certified check, money order or cash. No personal checks are accepted.

J. Michael McMahon, Clerk of Court

by: _____

, Deputy Clerk

APPEAL FORMS

Docket Support Unit

Revised: April 9, 2006

Notice is hereby given that _____ (party)
hereby appeals to the United States Court of Appeals for the Second Circuit from the Judgment [describe it]

() _____
(Telephone Number)

Revised: April 9, 2006

FORM 1

**United States District Court
Southern District of New York
Office of the Clerk
U.S. Courthouse
500 Pearl Street, New York, N.Y. 10007-1213**

-V-

**MOTION FOR EXTENSION OF TIME
TO FILE A NOTICE OF APPEAL**

civ.

()

Pursuant to Fed. R. App. P. 4(a)(5), _____ respectfully
(party)
requests leave to file the within notice of appeal out of time. _____
(party)
desires to appeal the judgment in this action entered on _____ but failed to file a
(day)
notice of appeal within the required number of days because:

[Explain here the "excusable neglect" or "good cause" which led to your failure to file a notice of appeal within the required number of days.]

(Signature)

(Address)

(City, State and Zip Code)

Date: _____

() _____
(Telephone Number)

Note: You may use this form, together with a copy of Form 1, if you are seeking to appeal a judgment and did not file a copy of Form 1 within the required time. If you follow this procedure, these forms must be received in the office of the Clerk of the District Court no later than 60 days of the date which the judgment was entered (90 days if the United States or an officer or agency of the United States is a party).

APPEAL FORMS

Docket Support Unit

Revised: April 9, 2006

FORM 2

**United States District Court
Southern District of New York
Office of the Clerk
U.S. Courthouse
500 Pearl Street, New York, N.Y. 10007-1213**

-V-

**NOTICE OF APPEAL
AND
MOTION FOR EXTENSION OF TIME**

civ. ()

1. Notice is hereby given that _____ hereby appeals to
(party)
the United States Court of Appeals for the Second Circuit from the judgment entered on _____.
[Give a description of the judgment]

2. In the event that this form was not received in the Clerk's office within the required time
_____ respectfully requests the court to grant an extension of time in
(party)
accordance with Fed. R. App. P. 4(a)(5).

a. In support of this request, _____ states that
(party)
this Court's judgment was received on _____ and that this form was mailed to the
(date)
court on _____
(date)

(Signature)

(Address)

(City, State and Zip Code)

Date: _____

() _____
(Telephone Number)

Note: You may use this form if you are mailing your notice of appeal and are not sure the Clerk of the District Court will receive it within the 30 days of the date on which the judgment was entered (60 days if the United States or an officer or agency of the United States is a party).

APPEAL FORMS

Docket Support Unit

Revised: April 9, 2006

FORM 3

**United States District Court
Southern District of New York
Office of the Clerk
U.S. Courthouse
500 Pearl Street, New York, N.Y. 10007-1213**

-----X
-V-
-----X

AFFIRMATION OF SERVICE

civ. ()

I, _____, declare under penalty of perjury that I have
served a copy of the attached _____

upon _____

whose address is: _____

Date: _____
New York, New York

(Signature)

(Address)

(City, State and Zip Code)

APPEAL FORMS

Docket Support Unit

Revised: April 9, 2006

**United States District Court
Southern District of New York
Office of the Clerk
U.S. Courthouse
500 Pearl Street, New York, N.Y. 10007-1213**

Date:

In Re:

-v-

Case #: ()

Dear Litigant,

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J. Michael McMahon, Clerk of Court

by: _____

, Deputy Clerk

APPEAL FORMS

Docket Support Unit

Revised: April 9, 2006

United States District Court
Southern District of New York
Office of the Clerk
U.S. Courthouse
500 Pearl Street, New York, N.Y. 10007-1213

-V-	X X	NOTICE OF APPEAL civ. ()
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Notice is hereby given that _____
(party)
hereby appeals to the United States Court of Appeals for the Second Circuit from the Judgment [describe it]

entered in this action on the _____ day of _____, _____
(day) (month) (year)

(Signature)

(Address)

(City, State and Zip Code)

Date: _____

() _____
(Telephone Number)

Note: You may use this form to take an appeal provided that it is received by the office of the Clerk of the District Court within 30 days of the date on which the judgment was entered (60 days if the United States or an officer or agency of the United States is a party).

FORM 1

**United States District Court
Southern District of New York
Office of the Clerk
U.S. Courthouse
500 Pearl Street, New York, N.Y. 10007-1213**

-V-

**MOTION FOR EXTENSION OF TIME
TO FILE A NOTICE OF APPEAL**

civ.

()

Pursuant to Fed. R. App. P. 4(a)(5), _____ respectfully
(party)
requests leave to file the within notice of appeal out of time. _____
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(day)
notice of appeal within the required number of days because:

[Explain here the "excusable neglect" or "good cause" which led to your failure to file a notice of appeal within the required number of days.]

(Signature)

(Address)

(City, State and Zip Code)

Date: _____

()

(Telephone Number)

Note: You may use this form, together with a copy of Form 1, if you are seeking to appeal a judgment and did not file a copy of Form 1 within the required time. If you follow this procedure, these forms must be received in the office of the Clerk of the District Court no later than 60 days of the date which the judgment was entered (90 days if the United States or an officer or agency of the United States is a party).

APPEAL FORMS

Docket Support Unit

Revised: April 9, 2006

FORM 2

**United States District Court
Southern District of New York
Office of the Clerk
U.S. Courthouse
500 Pearl Street, New York, N.Y. 10007-1213**

-V-

**NOTICE OF APPEAL
AND
MOTION FOR EXTENSION OF TIME**

civ. ()

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[Give a description of the judgment]

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accordance with Fed. R. App. P. 4(a)(5).

a. In support of this request, _____ states that
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court on _____
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(Signature)

(Address)

(City, State and Zip Code)

Date: _____

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APPEAL FORMS

Docket Support Unit

Revised: April 9, 2006

FORM 3

**United States District Court
Southern District of New York
Office of the Clerk
U.S. Courthouse
500 Pearl Street, New York, N.Y. 10007-1213**

-----X
-V-
-----X

AFFIRMATION OF SERVICE

civ. ()

I, _____, declare under penalty of perjury that I have
served a copy of the attached _____

upon _____

whose address is: _____

Date: _____
New York, New York

(Signature)

(Address)

(City, State and Zip Code)

APPEAL FORMS

Docket Support Unit

Revised: April 9, 2006